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UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF WASHINGTON

THOMAS E. PEREZ, Secretary of )  
Labor, United States Department of ) CASE NO.: CV-13-5081-RMP  
Labor, )  
Plaintiff, )  
v. )  
BLUE MOUNTAIN FARMS, BLUE )  
MOUNTAIN FARMS PACKING, )  
RYAN BROCK, SHIRLEY LOTT, and )  
JOHN AND JANE DOES I through )  
XX, )  
Defendants. )

PLAINTIFF THOMAS E. PEREZ, Secretary of Labor, (“Plaintiff” or the “Secretary”), United States Department of Labor (“Department”), brings this action pursuant to sections 502 and 512 of the Migrant and Seasonal Agricultural Worker Protection Act of 1983, as amended, (“MSPA” or the “Act”), 29 U.S.C. §§ 1852, 1862, to enjoin and restrain actions in violation of the Act.

1       1. This Court has subject matter jurisdiction over this Complaint  
2 pursuant to section 502 of the Act, 29 U.S.C. § 1852, and 28 U.S.C. § 1345  
3 (United States as plaintiff).

4       2. Venue is proper pursuant to 29 U.S.C. § 1852 and 28 U.S.C. § 1391 in  
5 that the Secretary's investigation to determine whether any person has violated or  
6 is violating any provision of the Act is being carried on within this judicial district.

7       3. Defendant BLUE MOUNTAIN FARMS is a business entity that owns  
8 and operates a blueberry farm and has its principal place of business in Walla  
9 Walla County, Washington, within the jurisdiction of this Court. Defendant BLUE  
10 MOUNTAIN FARMS is, and at all relevant times was, a "agricultural employer"  
11 of "migrant agricultural workers" and/or "seasonal agricultural workers" within the  
12 meaning of section 3 of the Act, 29 U.S.C. § 1802; and as it does not fall within  
13 one of the exceptions to coverage set forth at section 4 of the Act, 29 U.S.C. §  
14 1803, is subject to the coverage of the Act.

15       4. Defendant BLUE MOUNTAIN FARMS PACKING is a business  
16 entity that owns and operates a blueberry packing shed and has its principal place  
17 of business in Walla Walla County, Washington, within the jurisdiction of this  
18 Court. Defendant BLUE MOUNTAIN FARMS PACKING is, and at all relevant  
19 times was, a "agricultural employer" of "migrant agricultural workers" and/or  
20 "seasonal agricultural workers" within the meaning of section 3 of the Act, 29  
21 U.S.C. § 1802; and as it does not fall within one of the exceptions to coverage set  
22 forth at section 4 of the Act, 29 U.S.C. § 1803, is subject to the coverage of the  
23 Act.

24       5. Defendant RYAN BROCK, an individual, is an owner of Defendant  
25 BLUE MOUNTAIN FARMS and Defendant BLUE MOUNTAIN FARMS  
26 PACKING and resides within the jurisdiction of this Court. Defendant RYAN  
27 BROCK is, and at all relevant times was, a "agricultural employer" of "migrant  
28 agricultural workers" and/or "seasonal agricultural workers" within the meaning of

1 section 3 of the Act, 29 U.S.C. § 1802; and as he does not fall within one of the  
2 exceptions to coverage set forth at section 4 of the Act, 29 U.S.C. § 1803, is  
3 subject to the coverage of the Act.

4 6. Defendant SHIRLEY LOTT, an individual, is an owner of Defendant  
5 BLUE MOUNTAIN FARMS and Defendant BLUE MOUNTAIN FARMS  
6 PACKING and resides within the jurisdiction of this Court. Defendant SHIRLEY  
7 LOTT is, and at all relevant times was, a “agricultural employer” of “migrant  
8 agricultural workers” and/or “seasonal agricultural workers” within the meaning of  
9 section 3 of the Act, 29 U.S.C. § 1802; and as she does not fall within one of the  
10 exceptions to coverage set forth at section 4 of the Act, 29 U.S.C. § 1803, is  
11 subject to the coverage of the Act.

12 7. Defendants JOHN AND JANE DOES I through XX are individuals  
13 and business entities, the true names and capacities of which are unknown to  
14 Plaintiff, who therefore sues them under these fictitious names. Defendants JOHN  
15 AND JANE DOES I through XX are “agricultural employers” of “migrant  
16 agricultural workers” and/or “seasonal agricultural workers” within the meaning of  
17 section 3 of the Act, 29 U.S.C. § 1802, or agents or principals thereof, that do not  
18 fall within one of the exceptions to coverage set forth at section 4 of the Act, 29  
19 U.S.C. § 1803, and are therefore subject to the coverage of the Act. Plaintiff will  
20 amend this complaint to add their true names and capacities when they become  
21 known

22 8. Collectively, Defendants are, and at all relevant times were, the  
23 subject of an investigation by the Secretary through his authorized representatives,  
24 pursuant to Section 512 of the Act, 29 U.S.C. § 1862, to determine whether any  
25 person has violated or is violating any provision of the Act.

26 9. The purpose of the Act is “to remove the restraints on commerce  
27 caused by activities detrimental to migrant and seasonal agricultural workers; to  
28 require farm labor contractors to register under this Act; and to assure necessary

1 protections for migrant and seasonal agricultural workers, agricultural associations,  
2 and agricultural employers.” 29 U.S.C. § 1801.

3 10. On the morning of Monday, July 23, 2013, four (4) investigators and  
4 an Assistant District Director from the Wage and Hour Division of the U.S.  
5 Department of Labor (“Wage and Hour Investigators”), who are authorized  
6 representatives of the Secretary and officials of the Department, traveled to  
7 Defendants’ blueberry fields in Walla Walla County, Washington, where they  
8 observed persons employed in “agricultural employment” within the meaning of  
9 the Act.

10 11. As directed by the Act, the Wage and Hour Investigators proceeded to  
11 investigate, and in connection therewith, enter and inspect such places, question  
12 such persons and gather such information to determine compliance with the Act, or  
13 regulations prescribed under the Act.

14 12. Such places included the open fields of Defendants, where “migrant  
15 agricultural workers” and/or “seasonal agricultural workers” (hereinafter  
16 “workers”) were employed by Defendants in the act of picking blueberries; as well  
17 as Defendants’ packing shed, where workers were employed by Defendants in the  
18 act of packing blueberries for shipment.

19 13. Defendant RYAN BROCK gave consent to the Wage and Hour  
20 Investigators to enter and inspect Defendants’ fields and packing shed, and  
21 question such persons and gather such information to determine compliance with  
22 the Act, or regulations prescribed under the Act.

23 14. Defendant RYAN BROCK purported to limit the number of workers  
24 that the Wage and Hour Investigators could interview.

25 15. The Wage and Hour Investigators observed more than one hundred  
26 (100) workers working in the Defendants’ fields, and additional workers in the  
27 packing shed.

1       16. As each of the Wage and Hour Investigators can only interview and  
2 observe one worker at a time, they could not interview and gather information  
3 about the work of a sufficient number of such workers, to determine compliance  
4 with the Act before the workers completed their work for the day at approximately  
5 12:30 p.m., on Monday, July 23.

6       17. The Wage and Hour Investigators were also unable to inspect the  
7 interior of the packing shed for health and safety hazards to workers.

8       18. While a Wage and Hour Investigator is interviewing a worker, all of  
9 the remaining workers continue working on the harvest or on the packing shed  
10 line; and therefore the interviews do not interfere with the harvest.

11       19. The Wage and Hour Investigators returned to Defendants' property on  
12 the morning of Tuesday, July 24, 2013, and resumed interviewing workers and  
13 gathering information to determine Defendants' compliance with the Act.

14       20. On Tuesday, July 24, 2013, at or about 9:45 a.m, Defendant RYAN  
15 BROCK arrived at the Juicy blueberry field and, acting on behalf of all  
16 Defendants, demanded to the Wage and Hour Investigators there that all of the  
17 Wage and Hour Investigators leave.

18       21. The Wage and Hour Investigators complied, and withdrew to a road  
19 used to access Defendants' property.

20       22. Negotiations between Defendants and the Secretary, through counsel,  
21 through the rest of the day on July 24, 2013, did not result in the Wage and Hour  
22 Investigators regaining access to the fields and/or packing shed.

23       23. Defendants, through counsel, stated that they would contact the  
24 county sheriff and allege criminal trespassing against the Wage and Hour  
25 Investigators, should the Wage and Hour Investigators attempt to reenter the fields  
26 or the packing shed.

27       24. It is a necessary part of an investigation and inspection under the Act  
28 to interview and observe workers while they are working in the fields; for example,

1 investigators from the Wage and Hour Division perform time studies of how many  
2 pounds of berries workers pick to ensure workers are making the minimum wage  
3 when paid at a piece rate. Investigators also attempt to ensure that all workers seen  
4 actually working in the fields are of legal age and listed on the employer's payroll.

5 25. The harvest season at an individual fresh fruit farm such as that of  
6 Defendants is as short as three to four weeks. Even a short period of obstruction  
7 and interference with an investigation is harmful to the Secretary's ability to  
8 enforce the Act.

9

10 **Count One: Unlawful Interference with MSPA Investigation**

11 26. Plaintiff incorporates and realleges Paragraphs 1-25 above.

12 27. Through the acts described above, Defendants unlawfully resisted,  
13 opposed, impeded, intimidated, and interfered with officials of the Department of  
14 Labor assigned to perform an investigation, inspection, or law enforcement  
15 function pursuant to the Act during the performance of such duties, in violation of  
16 section 512 of the Act, 29 C.F.R. § 1862.

17

18 WHEREFORE, the Plaintiff Secretary of Labor prays that this Court:

19 a. Issue a temporary restraining order restraining all Defendants from  
20 unlawfully resisting, opposing, impeding, intimidating, or interfering with officials  
21 of the Department of Labor assigned to perform an investigation, inspection, or  
22 law enforcement function pursuant to the Act during the performance of such  
23 duties; and

24 b. Issue a permanent injunction enjoining all Defendants from  
25 unlawfully resisting, opposing, impeding, intimidating, or interfering with officials  
26 of the Department of Labor assigned to perform an investigation, inspection, or  
27 law enforcement function pursuant to the Act during the performance of such  
28 duties; and

- c. Award the Secretary his attorney's fees and costs; and
- d. Award such other equitable relief as may be appropriate.

Dated: July 25, 2013

M. PATRICIA SMITH<sup>1</sup>  
Solicitor of Labor

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<sup>1</sup> Congress directed that the Secretary would be represented by the office of the Solicitor of Labor in district court actions under MSPA. 29 U.S.C. § 1852.